

**BEFORE
EDWIN H. BENN
ARBITRATOR**

In the Matter of the Arbitration

between

VILLAGE OF MAYWOOD

and

ILLINOIS COUNCIL OF POLICE

CASE NOS.: S-MA-16-119
Arb. Ref.: 17.231
(Interest Arbitration)

OPINION AND AWARD

APPEARANCES:

For the Village: James Bartley, Esq.
Jason Guisinger, Esq.

For the Union: Robert Trevarthen, Esq.
Julie Trevarthen, Esq.

I. BACKGROUND

This is an interest arbitration pursuant to Section 14 of the Illinois Public Labor Relations Act, 5 ILCS 315 *et seq.*, (“Act”) to set the terms of the parties’ May 1, 2017 to April 30, 2020 collective bargaining agreement which is the successor to the May 1, 2014 to April 30, 2017 contract.¹ The Union represents the Village’s patrol officers.

¹ The parties waived the requirement for a tri-partite panel.

The following issues are in dispute:

1. Arbitration;
2. Manning;
3. Sick leave days;
4. Extended sick leave.

II. DISCUSSION

A. Arbitration

Section 7.2 of the predecessor agreement provides that discipline of covered officers be adjudicated by the Village's Fire and Police Commission. The Union seeks to allow officers to choose between the grievance procedure ending in arbitration and the Commission as the forum in which disputes over disciplinary suspensions and discharges are resolved. The Village seeks to maintain the *status quo*.

Section 8 of the Act provides [emphasis added]:

Sec. 8. Grievance Procedure. The collective bargaining agreement negotiated between the employer and the exclusive representative *shall* contain a grievance resolution procedure which shall apply to all employees in the bargaining unit and *shall* provide for final and binding arbitration of disputes concerning the *administration or interpretation* of the agreement unless mutually agreed otherwise. ...

The undersigned has faced this issue before and has held that the above language of the Act requires that, if requested, an arbitration provision must be placed in the collective bargaining agreement. *See Village of Lansing and Fraternal Order of Police*, S-MA-04-240 (2007) at 16-21 and awards cited therein.²

The Union's position is therefore adopted.

² <https://www.illinois.gov/ilrb/arbitration/Documents/S-MA-04-240.pdf>

B. Manning

Section 9.6 of the current agreement provides for minimum manning requirements for shifts. The Village seeks to remove the minimum manning requirements from the agreement. The Union seeks to maintain the *status quo*.

With respect to manning, Section 14(i) of the Act distinguishes between fire fighters and peace officers. For fire fighters, Section 14(i) provides that “[i]n the case of fire fighter, and fire department or fire district paramedic matters, the arbitration decision shall be limited to wages, hours, and conditions of employment (including manning” However, for peace officers, Section 14(i) provides “[i]n the case of peace officers, the arbitration decision shall be limited to wages, hours, and conditions of employment ... and shall not include the following: ... iii) manning ... provided, nothing herein shall preclude an arbitration decision regarding equipment or manning levels if such decision is based on a finding that the equipment or manning considerations in a specific work assignment involve a serious risk to the safety of a peace officer beyond that which is inherent in the normal performance of police duties.”

The Village sought a declaratory ruling from the Labor Board’s General Counsel Helen Kim who issued the following ruling in *Village of Maywood and Illinois Council of Police*, S-DR-18-002 (October 16, 2017) at 6:

... I find that Section 14(i) of the Act renders the subject covered by Section 9.6 of the parties’ collective bargaining agreement a non-mandatory subject of bargaining and prohibits an arbitrator from including such a subject in an interest arbitration decision involving the parties’ successor collective bargaining agreement.

Based upon the language in Section 14(i) and General Counsel Kim's ruling, the minimum manning provisions in Section 9.6 of the predecessor agreement must be removed for the current agreement.

The Union's argument that the safety exception found in Section 14(i) applies does not change the result. While the evidence shows that the patrol duties in Maywood do, with some frequency, place the officers in positions of potential harm, that evidence does not, in my opinion, rise to the level of being "... a specific work assignment [that] involve[s] a serious risk to the safety of a peace officer beyond that which is inherent in the normal performance of police duties."

The Village's position is therefore adopted.

C. Sick Leave Days

Officers currently receive 72 hours of sick leave. The Union seeks to increase that to 96 hours. The Village seeks to maintain the *status quo*.

The evidence shows that comparable internal bargaining units (the sergeants and the fire fighters) receive 72 hours of sick leave. There is no demonstrated reason sufficient for me to find that the employees in this case should have their sick leave benefit increased to the amount sought by the Union.

The Village's position is therefore adopted.

D. Extended Sick Leave

Currently, officers receive an extended sick leave benefit which can be used once in a 24-month period (which was a negotiated change from once in a 12-month period in the agreement before the predecessor agreement). The Union seeks to return the benefit to be used once in a 12-month period. The Village seeks to maintain the *status quo*.

I find no sufficient basis to change the existing 24-month period. However, because of statements allegedly made during bargaining for the predecessor agreement concerning the Village's efforts to change all employees to have a 24-month period, I shall not find that the 24-month period constitutes a *status quo* for the next contract negotiation. For the next agreement, the Union will therefore be free to again request a change to the 24-month period for this benefit and not be bound by an argument that the 24-month period constitutes the *status quo*.

E. Prior Tentative Agreements

Prior tentative agreements reached by the parties during negotiations and presented to the undersigned as Exhibit 2 to the parties' stipulation are incorporated into this award.

III. AWARD

Based on the above, the following shall be the resolution of the disputed terms.

1. Arbitration

The Union's position is adopted – option for arbitration provision added.

2. Manning

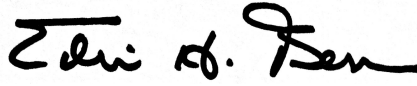
The Village's position is adopted – minimum manning is removed.

3. Sick Leave Days

The Village's position is adopted – *status quo*.

4. Extended Sick Leave

The Village's position is adopted – *status quo*.

A handwritten signature in black ink, reading "Edwin H. Benn". The signature is written in a cursive style with a horizontal line underneath.

Edwin H. Benn
Arbitrator

Dated: October 18, 2017